

No. 14717

**United States
Court of Appeals**
for the Ninth Circuit.

VINCENTE RAMOS-RIVERA,

Appellant,

vs.

ALBERT DEL GUERCIO, Acting District Director of Immigration and Naturalization Service, Los Angeles, and U. L. PRESS, Officer in Charge,

Appellee.

Transcript of Record

**Appeal from the United States District Court
Southern District of California
Southern Division**

FILED

JUN 20 1955

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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NAMES AND ADDRESSES OF ATTORNEYS

For Appellant:

SWEET, AULT & WARNER,

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For Appellees:

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U. S. Attorney;

MAX F. DEUTZ,

ANDREW J. DAVIS,

Assistants U. S. Attorney,

600 Federal Bldg.,
Los Angeles 12, Calif.

In the United States District Court in and for
the Southern District of California, Southern
Division

No. 1720-Civ. S.D.

No. 1611-10634 L.A.

In the Matter of the Application of:

VINCENTE RAMOS-RIVERA for a Writ of
Habeas Corpus.

PETITION FOR WRIT OF
HABEAS CORPUS

The petition of Vincente Ramos-Rivera for a
Writ of Habeas Corpus respectfully shows:

I.

That on January 3, 1942, petitioner was granted
United States citizenship by the Superior Court of
the State of California, in and for the County of
San Diego.

II.

That petitioner has worked in San Diego, Cali-
fornia, continuously since July 3, 1936, up to the
present time.

III.

That since 1947 petitioner has maintained a home
in Tijuana, Mexico, for the purpose of caring for
his children and has crossed the border daily to
work at his occupation.

IV.

That petitioner sought the advice of the American

Consulate in Tijuana, Mexico, as to whether or not said arrangement would affect his citizenship and was advised that as long as he crossed daily to work, he would not lose any rights of citizenship in the United States. [2*]

V.

That on September 1, 1954, petitioner applied for admission at San Ysidro, California, and was held for a hearing before a Special Inquiry Officer. That on September 21, 1954, the Special Inquiry Officer ordered that petitioner be admitted as a citizen of the United States. That the Officer in Charge of San Ysidro, California, appealed from this decision. That on December 17, 1954, the Board of Immigration Appeals sustained the Appeal of the Officer in Charge and ordered petitioner excluded from the United States.

VI.

That petitioner claims that he has not lost his United States citizenship and that he has a right to enter the United States and that he has been denied such a right and privilege by the United States Department of Justice, Immigration and Naturalization Service and by the Officials thereof, upon the ground that he is not a National of the United States.

VII.

That petitioner has been and now is unlawfully and forceably restrained of his liberty by Albert Del Guercio, Acting District Director of Immigration and Naturalization, Los Angeles, California, and

U. L. Press as Officer in Charge, San Ysidro, California, and each and all of their agents and servants within the jurisdiction of this Court.

Wherefore, your petitioner prays that a Writ of Habeas Corpus be issued out of this Court, directed to Albert Del Guercio, as District Director and U. L. Press, as Officer in Charge, and each and all of their agents and servants, requiring them, and each of them to bring before this court forthwith, the body of Vincente Ramos-Rivera to do and receive what the Court then and there considers and then and there to show cause, if any they may have, for restraining and detaining Vincente Ramos-Rivera.

Your petitioner further prays that the Court may determine the [3] legality of the restraint and detention of said Vincente Ramos-Rivera and thereupon dispose of the case as law and justice may require.

SWEET, AULT & WARNER,
By /s/ VERNE O. WARNER,
/s/ VINCENTE RAMOS-RIVERA.

Duly verified.

[Endorsed]: Filed February 17, 1955. [4]

[Title of District Court and Cause.]

PROPOSED ORDER TO SHOW CAUSE

Good cause appearing therefore, and upon reading the verified Petition on file herein;

It Is Hereby Ordered that the defendant, U. L.

Press, appear before this Court on the day of February, 1955, at 10:00 o'clock in the forenoon, to show cause, if any he has, why a Writ of Habeas Corpus should not be issued herein as prayed for, and that a copy of this order be served upon the said U. L. Press, Officer in Charge, San Ysidro, California, and that a copy of this order and a copy of the Petition be served upon the Assistant United States Attorney, his representative herein.

Dated: February, 1955.

.....,
Judge of the United States
District Court.

Order Denying Petition, etc.

It does not appear from the petition that petitioner is committed, imprisoned or detained by anyone, or is in the custody of anyone, so as to authorize the issuance of a Writ of Habeas Corpus or an order to show cause therefor under the provisions of Title 28, U.S.C. 2241, et seq.

It is therefore hereby ordered that the petition for the writ or the order to show cause therefor is denied, and the case is dismissed.

Dated: San Diego, Calif., Feb. 18th, 1955.

/s/ PEIRSON M. HALL,
Judge.

[Endorsed]: Filed February 18, 1955. [5]

[Title of District Court and Cause.]

NOTICE OF APPEAL

Notice is hereby given that Vincente Ramos-Rivera, applicant above named, hereby appeals to the Circuit Court of Appeals for the Ninth Circuit from the order denying the Petition for a Writ of Habeas Corpus and the Order to Show Cause therefor entered in this action on February 18, 1955.

SWEET, AULT & WARNER,
By /s/ VERNE O. WARNER,
Attorneys for Appellant.

Affidavit of Service by Mail attached.

[Endorsed]: Filed February 28, 1955. [6]

[Title of District Court and Cause.]

STATEMENT OF POINTS ON APPEAL

Appellant herewith presents the points upon which he claims the Court erred:

1. In denying appellant's request for an Order to Show Cause.
2. In denying appellant's Petition for a Writ of Habeas Corpus.
3. In dismissing the case on ground appellant was not in custody.

SWEET, AULT & WARNER,
By /s/ VERNE O. WARNER,
Attorneys for Appellant.

Affidavit of Service by Mail attached.

[Endorsed]: Filed March 25, 1955. [8]

[Title of District Court and Cause.]

CERTIFICATE OF CLERK

I, Edmund L. Smith, Clerk of the United States District Court for the Southern District of California, do hereby certify that the foregoing pages numbered 1 to 10, inclusive, contain the original:

Petition for Writ of Habeas Corpus;

Order Denying Petition;

Notice of Appeal;

Statement of Points on Appeal;

Designation of Record on Appeal;

in the above-entitled cause, which constitute the transcript of record on appeal to the United States Court of Appeals for the Ninth Circuit in said cause.

I further certify that my fees for preparing and certifying the foregoing record amount to \$2.00, which sum has been paid by appellant.

Witness my hand and the seal of said District Court this 6th day of April, 1955.

[Seal]

EDMUND L. SMITH,
Clerk;

By /s/ THEODORE HOCKE,
Chief Deputy.

[Endorsed]: No. 14717. United States Court of Appeals for the Ninth Circuit. *Vincente Ramos-Rivera*, Appellant, vs. *Albert Del Guercio*, Acting District Director of Immigration and Naturalization Service, Los Angeles, and *U. L. Press*, Officer in Charge, Appellee. Transcript of Record. Appeal

from the United States District Court for the Southern District of California, Southern Division.

Filed April 7, 1955.

/s/ PAUL P. O'BRIEN,

Clerk of the United States Court of Appeals for the Ninth Circuit.

In the United States Court of Appeals
for the Ninth Circuit

No. 14717

VINCENTE RAMOS-RIVERA,

Appellant,

vs.

ALBERT DEL GUERCIO, etc., et al.,

Defendants.

STATEMENT ON POINTS ON APPEAL AND
DESIGNATION OF RECORD

Appellant in the above-entitled cause hereby adopts as his statement of points on which he intends to rely on this appeal the statement of points on appeal as it now appears in the transcript of the record herein.

Appellant further adopts the designation of record as it now appears in the transcript of the record herein.

SWEET, AULT & WARNER,

By /s/ VERNE O. WARNER,

Attorneys for Appellant.

[Endorsed]: Filed April 21, 1955.

